

California Regional Water Quality Control Board
North Coast Region

ORDER NO. R1-2003-0027

Waste Discharge Requirements

for

THE PACIFIC LUMBER COMPANY, SCOTIA PACIFIC COMPANY LLC,
AND SALMON CREEK CORPORATION

P.O. Box 37
Scotia, CA 95565

FRESHWATER CREEK
Humboldt County

The California Regional Water Quality Control Board, North Coast Region, (hereinafter the Regional Water Board) finds that:

1. The Pacific Lumber Company, the Scotia Pacific Company LLC, and Salmon Creek Corporation, all subsidiaries of MAXXAM, Inc., (hereinafter collectively referred to as the Discharger) together own approximately 15,400 acres (77%) of the 19,892 acre Freshwater Creek watershed. Freshwater Creek, which is tributary to Humboldt Bay, is located east of Eureka. Freshwater Creek is listed as sediment impaired under Section 303(d) of the federal Clean Water Act.
2. The Discharger conducts timber harvesting, forestry management, road construction and maintenance, and related activities on the lands within the Freshwater Creek watershed within its ownership.
3. On January 16, 2003, the Discharger submitted a Report of Waste Discharge (ROWD) for seven timber harvest plans (THPs) that are planned to be operated on during the winter of 2002-2003. All seven of the THPs drain to Freshwater Creek or tributaries to Freshwater Creek. Waste discharge requirements for two THPs, 1-01-325 HUM and 1-01-378 HUM, have been waived pursuant to Order No. R1-2003-0006. Waste discharge requirements for one THP, 1-01-428 HUM, and portions of another THP, 1-01-411 HUM Units 1 and 2, have been waived pursuant to Order No. R1-2002-0109. This order only includes THPs or portions of THPs not already covered by waste discharge requirements or waiver thereof. The four THPs subject to this order represent approximately 238 acres of timber harvest, with the majority utilizing evenage management, and are listed below.

THP Number	Harvested Acres	Silviculture
1-01-200 HUM	51	CC/49; CT/2
1-01-411 HUM	37	CC/36; SEL/1
1-01-451 HUM	100	CC/95; CT/5
1-01-453 HUM	50	CC/48; CT/2
Totals	238	CC/228; CT/9; SEL/1
CC=Clearcut; CT=Commercial Thin; SEL=Selection.		

4. Pursuant to the Water Quality Control Plan for the North Coast Region (Basin Plan), including State Water Resources Control Board (State Water Board) Resolution No. 88-63, the existing and potential beneficial uses of the Eureka Plain Hydrologic Unit, including Freshwater Creek and its tributaries, are:
 - a. Municipal and Domestic Supply (MUN)
 - b. Agricultural Supply (AGR)
 - c. Industrial Service Supply (IND)
 - d. Navigation (NAV)
 - e. Water Contact Recreation (REC-1)
 - f. Non-contact Water Recreation (REC-2)
 - g. Cold Freshwater Habitat (COLD)
 - h. Wildlife habitat (WILD)
 - i. Rare, Threatened, or Endangered Species (RARE)
 - j. Marine Habitat (MAR)
 - k. Migration of Aquatic Organisms (MIGR)
 - l. Spawning, Reproduction, and/or Early Development (SPWN)
 - m. Shellfish Harvesting (SHELL)
 - n. Estuarine Habitat (EST)
 - o. Aquaculture (AQUA)
5. The Basin Plan contains water quality objectives developed to protect the above-listed beneficial uses of water. Economic considerations were considered as required by law during the development of these objectives. Prohibitions, provisions, and specifications contained in this Order implement these previously developed water quality objectives. Compliance with water quality objectives will protect the beneficial uses listed in Finding 4, above.
6. During the decade from 1987 to 1997, Pacific Lumber significantly increased the rate of timber harvest on its ownership over the rate of harvest that occurred during the period from 1974 to 1987.
7. Corresponding with the increased rates of harvesting and related activities, an increase in sediment deliveries to Freshwater Creek has been documented. During this same time period residents reported degraded water quality conditions. These conditions have been documented by residents and Regional Water Board staff. (PWA, 1999; CRWQCB, 2000; CDF, 1997).
8. Increases in sediment deliveries indicate a linkage between the Discharger's increased timber activities and increased degradation of stream conditions. Since the Discharger is responsible for the construction of roads, landing and harvesting activities, the Discharger has caused or permitted discharges of sediment significantly greater than would be expected in the absence of timber harvest activities.
9. The sediment impairment in Freshwater Creek has adversely affected beneficial uses, eliminated or significantly reduced fish habitat, and significantly reduced channel capacity, contributing to increased severity and frequency of flooding. The increased flooding threatens public health and safety, including homes, roads, and other structures.

18. At this time, the Discharger is proposing to conduct activities on a number of THPs within its Freshwater Creek ownership, including the four THPs described in the ROWD. These activities will result in additional discharges and threatened discharges of sediment to Freshwater Creek and its tributaries, threatening to cause further impairment of the beneficial uses of Freshwater Creek.
19. The provisions and prohibitions contained in this order are consistent with the provisions of State Water Board Resolution No. 68-16, "*Statement of Policy with Respect to Maintaining High Quality of Waters in California.*" If the provisions and prohibitions contained in this order are complied with, impacts to receiving waters will be insignificant.
20. The Regional Water Board has notified the Discharger and interested agencies and persons of its intent to take this action, and has provided them with an opportunity to submit their written views and recommendations.
21. Environmental analysis documents have been prepared pursuant to the California Environment Quality Act (Pub. Resources Code, section 21000 et seq.) (CEQA) for the projects listed above in Finding 3. The timber harvesting review process enacted by the Z'Berg-Njedly Forest Practice Act of 1973 (Pub. Resources Code, section 4511 et seq.) is a certified regulatory program pursuant to CEQA. (Title 14, California Code of Regulations, section 15251(a).) The THP documents prepared pursuant to the California Forest Practice Rules (Title 14, California Code of Regulations, section 895 et seq.) serve as a substitute environmental document pursuant to CEQA. Because the THP process meets the criteria set forth in Title 14, California Code of Regulations, 15253, the THP documents are conclusively presumed adequate and must be relied upon by the Regional Water Board in complying with CEQA to authorize activities addressed in the THPs. (Pub. Resources Code, section 21167.2; Title 14, California Code of Regulations, section 15231.) The Regional Water Board may require the preparation of supplemental environmental documentation only in the event of significant new information as specified in Title 14, California Code of Regulations, sections 15162, 15096, and 15052. The Regional Water Board has considered the THPs as required by Title 14, California Code of Regulations, section 15096(f), and finds that no grounds to require supplemental environmental documentation exist. The THPs therefore satisfy the Regional Water Board's obligation to comply with CEQA before issuing this Order.
22. The Regional Water Board, in a public meeting held in the River Lodge Conference Center, Fortuna, California on February 27, 2003, heard and considered all comments pertaining to this action.

THEREFORE, IT IS HEREBY ORDERED THAT the Discharger shall comply with the following in order to meet provisions of the Basin Plan, California Water Code and regulations adopted thereunder:

I. DISCHARGE PROHIBITIONS

- A. Except in accordance with the terms of the Report of Waste Discharge, the controllable discharge or deposition of soil, silt, bark, slash, sawdust, or other earthen or organic material other than large woody debris from any logging, construction or associated

activity into Freshwater Creek or its tributaries or to a location where such material could pass into Freshwater Creek or its tributaries is prohibited. Controllable discharges or depositions are those discharges or depositions resulting from human activities that can influence the quality of waters of the State and that can be reasonably controlled through prevention, mitigation, or restoration.

- B. Creation of a condition of pollution, contamination, or nuisance, as these terms are defined in California Water Code section 13050, is prohibited.
- C. The discharge of storm water from a facility or activity that causes or contributes to the violation of water quality standards or water quality objectives (collectively WQSs) is prohibited.

II. DISCHARGE STANDARDS AND OBJECTIVES

- A. Discharge from timber harvesting and related activities associated therewith (including appurtenant roads) under any or all of the timber harvest plans shall not cause coloration that causes nuisance or adversely affect the beneficial uses of Freshwater Creek or its tributaries (Basin Plan, section 3, Water Quality Objectives, Objectives for Inland Surface Waters, Enclosed Bays, and Estuaries, Color, page 3-2.00).
- B. Discharge from timber harvesting and related activities associated therewith (including appurtenant roads) under any or all of the timber harvest plans shall not cause waters to contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin or that cause nuisance or adversely affect the beneficial uses of Freshwater Creek or its tributaries (Basin Plan, section 3, Water Quality Objectives, Objectives for Inland Surface Waters, Enclosed Bays, and Estuaries, Taste and Odor, page 3-2.00).
- C. Discharge from timber harvesting and related activities associated therewith (including appurtenant roads) under any or all of the timber harvest plans shall not cause waters to contain floating material, including solids, liquids, foams, and scum in concentrations that cause nuisance or adversely affect the beneficial uses of Freshwater Creek or its tributaries (Basin Plan, section 3, Water Quality Objectives, Objectives for Inland Surface Waters, Enclosed Bays, and Estuaries, Floating Material, page 3-2.00).
- D. Discharge from timber harvesting and related activities associated therewith (including appurtenant roads) under any or all of the timber harvest plans shall not cause waters to contain suspended material in concentrations that cause nuisance or adversely affect the beneficial uses of Freshwater Creek or its tributaries (Basin Plan, section 3, Water Quality Objectives, Objectives for Inland Surface Waters, Enclosed Bays, and Estuaries, Suspended Material, page 3-2.00).
- E. Discharge from timber harvesting and related activities associated therewith (including appurtenant roads) under any or all of the timber harvest plans shall not result in deposition of material that adversely affects the beneficial uses of Freshwater Creek or its tributaries (Basin Plan, section 3, Water Quality Objectives, Objectives for Inland Surface Waters, Enclosed Bays, and Estuaries, Settleable Material, page 3-2.00).

- F. Discharge from timber harvesting and related activities associated therewith (including appurtenant roads) under any or all of the timber harvest plans shall not cause waters to contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect the beneficial uses of Freshwater Creek or its tributaries (Basin Plan, section 3, Water Quality Objectives, Objectives for Inland Surface Waters, Enclosed Bays, and Estuaries, Oil and Grease, page 3-3.00).
- G. Discharge from timber harvesting and related activities associated therewith (including appurtenant roads) under any or all of the timber harvest plans shall not cause waters to contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect the beneficial uses of Freshwater Creek or its tributaries (Basin Plan, section 3, Water Quality Objectives, Objectives for Inland Surface Waters, Enclosed Bays, and Estuaries, Biostimulatory Substances, page 3-3.00).
- H. Discharge from timber harvesting and related activities associated therewith (including appurtenant roads) under any or all of the timber harvest plans shall not cause the suspended sediment load and the suspended sediment discharge rate to be altered in such a manner as to cause nuisance or adversely affect beneficial uses of Freshwater Creek or its tributaries (Basin Plan, section 3, Water Quality Objectives, Objectives for Inland Surface Waters, Enclosed Bays, and Estuaries, Sediment, page 3-3.00).
- I. Discharge from timber harvesting and related activities associated therewith (including appurtenant roads) under any or all of the timber harvest plans shall not cause the turbidity of Freshwater Creek or its tributaries, to be increased more than 20 percent above naturally occurring background levels (Basin Plan, section 3, Water Quality Objectives, Objectives for Inland Surface Waters, Enclosed Bays, and Estuaries, Turbidity, page 3-3.00). Naturally occurring background levels of water quality are those levels of water quality that would naturally occur in the Freshwater Creek absent controllable discharges.
- J. Discharge from timber harvesting and related activities associated therewith (including appurtenant roads) under any or all of the timber harvest plans shall not cause waters in Freshwater Creek or its tributaries to contain any toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life (Basin Plan, section 3, Water Quality Objectives, Objectives for Inland Surface Waters, Enclosed Bays, and Estuaries, Toxicity, page 3-4.00).
- K. Discharge from timber harvesting and related activities associated therewith (including appurtenant roads) under any or all of the timber harvest plans shall not cause an individual pesticide or combination of pesticides to be present in concentrations that adversely affect beneficial uses of Freshwater Creek or its tributaries. There shall be no bioaccumulation of pesticide concentrations found in bottom sediments or aquatic life (Basin Plan, section 3, Water Quality Objectives, Objectives for Inland Surface Waters, Enclosed Bays, and Estuaries, Pesticides, page 3-4.00).

- L. Upon acceptance of the ROWD as complete, or any amendments thereto, by the Executive Officer, the Discharger shall implement the discharge control measures as described in the ROWD.

III. DISCHARGE PROVISIONS

A. Copies of Order

Copies of this Order shall be maintained at appropriate business office(s) and field location(s) so as to be readily available for reference by any personnel at all times.

B. Severability

Provisions of these waste discharge requirements are severable. If any provision of these requirements is found invalid, the remainder of these requirements shall not be affected.

C. Operation and Maintenance

The Discharger must, at all times, maintain in good working condition and operate as efficiently as possible all facilities, treatment systems, erosion control systems and related appurtenances that allow for management of controllable waste discharges to Freshwater Creek and its tributaries. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures.

D. Unplanned Change in Discharge

The Discharger must promptly report to the Regional Water Board in writing any unplanned material change in the volume or location of waste discharge in Freshwater Creek and its tributaries. Such changes include, but are not limited to, landslides, herbicides, pesticides, petroleum hydrocarbons, and accidental spills.

E. Change in Ownership

In the event of any change in control or ownership of land or waste discharge presently owned or controlled by the Discharger, the Discharger must notify the succeeding owner or operator of the following items by letter, a copy of which must be forwarded to the Regional Water Board.

1. existence of this Order, and
2. the status of the Discharger's annual fee account

F. Vested Rights

This Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the Discharger from liability under federal,

state, or local laws, nor create a vested right for the Discharger to continue the discharge of waste.

G. Monitoring

The Discharger shall comply with the Monitoring and Reporting Program (M&R) No. R1-2003-0027 (Attachment A) and any modifications to these documents as specified by the Executive Officer. Such documents are attached to this Order and incorporated herein.

H. Inspections

The Discharger shall permit authorized staff of the Regional Water Board:

1. entry upon premises in which a discharge source is located or in which any records are kept;
2. access to copy any records required to be kept under terms and conditions of this Order;
3. inspection of any monitoring locations, equipment, or records; and
4. sampling of any discharge at any location.

I. Inspection Program

1. The Discharger shall have an inspection program to ensure actions are implemented and facilities are constructed, operated, and maintained in accordance with these WDRs. The inspection program shall include training for inspection personnel, documentation of field activities, and a reporting system that can be used to track effectiveness of control measures. This inspection program shall be documented in the ROWD.
2. The Discharger shall inspect active project sites and roads during and after storms to ensure that management practices are functioning adequately and preventing the discharge of pollutants to surface waters or storm water conveyance systems that discharge to surface waters.

J. Noncompliance

1. In the event the Discharger is unable to comply with any of the conditions of this Order the Discharger shall notify the Executive Officer by telephone as soon as it or its agents have knowledge of the incident and confirm this notification in writing within two weeks of the telephone notification. The written notification shall include descriptions of (1) the nature and cause of the noncompliance; (2) the management practices currently being implemented to correct the noncompliance and dates thereof; (3) any additional management practice(s) that will be implemented to prevent or reduce pollutants that are causing or contributing to the noncompliance; (4) steps being taken to prevent the noncompliance from recurring; and (5) any maintenance or repair of erosion control measures conducted. This report shall also include an implementation schedule for corrective actions.

2. Immediately after the submitting the noncompliance notification to the Regional Water Board, the Discharger shall revise its ROWD to incorporate the additional management measures that have been and will be implemented, the implementation schedule, and any additional monitoring needed.
3. Nothing in this section shall prevent the Regional Water Board from enforcing any condition(s) of this permit while the Discharger prepares and implements the above report.
4. Specific limitations called for in II. Discharge Standards and Objectives-I may be exceeded for very short time periods, and only to the extent that beneficial uses are not impaired, in order to install necessary pollution control facilities such as bridges, culverts, energy dissipation devices, or erosion control devices. A “very short time period” is defined as the period of time necessary to install a given device and to immediately stabilize any disturbed soil following installation. This assumes that no time is allowed to elapse between completion of device installation and commencement of stabilization activities and that stabilization efforts continue, uninterrupted from start to completion.

K. Unscheduled Revision of Requirements

1. The Regional Water Board requires the Discharger to file a ROWD at least 90 days before making any material change or proposed change in the character, location, or volume of any discharge. Such changes include, but are not limited to, amending or modifying covered timber harvest plans, adding new timber harvest plans within the watershed, building new roads, etc.
2. These WDRs may be modified. The filing of a request by the Discharger for WDR modification or a notification of planned changes or anticipated noncompliance does not stay any conditions of these WDRs. Causes for modification include the promulgation of new regulations or adoption of new regulations by the State Water Board or the Regional Water Board, including revisions to the Basin Plan.
3. The Executive Officer may make minor alterations to these waste discharge requirements, provided that:
 - a) Any proposed changes to be covered by these waste discharge requirements does not constitute a material change in the character, location, or volume of the discharge currently covered by these waste discharge requirements;
 - b) Any proposed changes will be submitted as a revision to the Discharger's ROWD; and,
 - c) If the proposed change(s) falls under the jurisdiction of the California Department of Forestry and Fire or the Forest Practice Act or the Forest Practice Rules, then the proposed change must first be approved by CDF prior to revisions of these waste discharge requirements.

L. Scheduled Annual Revision of Requirements

1. The Discharger shall submit, by July 1 of each year, a revised ROWD which identifies all timber harvesting and associated activities proposed to be conducted in the Freshwater Creek watershed during the upcoming winter period.
2. Management practice development is a fluid and dynamic process, and the menu of management practices contained in the ROWD may require changes over time as experience is gained and/or the state of the art progresses. The ROWD shall be reviewed annually and modified as necessary to maintain an effective program. The ROWD shall reflect the principles that storm water management is to be a year-round proactive program to eliminate or control pollutants at their source or to reduce them from the discharge by either structural or nonstructural means when elimination at the source is not possible.
3. The ROWD shall include an effective operation and maintenance program for management practices, which includes a clear description of inspection and monitoring frequency, method(s), and personnel; criteria used to assess proper function; process for maintaining or repairing management practices; documentation system; and training/educational program for employees and contractors conducting activities within the area covered by these WDRs.

M. Herbicide or Pesticide Use Notification

The Discharger shall notify the Regional Water Board in writing 45 days in advance of the use of any herbicide or pesticide between October 15 and May 1 of each year, which is to be applied on any lands covered by this Order. Notification shall include the type of material used and its U.S. EPA registration number, its application rate, its application method, the range, township, and section numbers of land affected, as well as the total number of acres affected, and methods to be employed to ensure that the material is not introduced to Freshwater Creek or its tributaries.

N. Other Applicable Laws and Regulations

1. The Discharger shall comply with all requirements relating to erosion control and water quality protection contained in the Forest Practice Rules, as may be amended from time to time, and contained in the THPs covered by this Order.
2. The Discharger is expected to comply with lawful requirements of Humboldt County, federal agencies, and other State agencies, regarding storm water discharges. These WDRs do not authorize violation of any federal, State, or local law or regulation.

O. Non-Sediment Wastes

The Discharger shall identify and describe additional types and sources of pollutants other than sediment that may be discharged to receiving waters and describe:

1. control measures to reduce pollutants to the maximum extent practicable and to minimize the adverse impacts of such sources;
2. procedures and Performance Standards for their implementation; and,
3. procedures for monitoring and record management.

The Discharger shall notify the RWQCB within 48 hours, by telephone, of knowledge of a discharge of non-sediment waste and report discharges of non-sediment waste within Monitoring and Reporting Program No. R1-2003-0027.

P. Emergency Discharges

Discharges or flows from health and safety emergencies, such as fire fighting activities and accident response, shall be reported to the Regional Water Board within 48 hours of initial abatement activities.

Q. Activity commencement and conclusion notifications

1. A startup notification for activities in individual THP units shall be provided to the RWQCB at least five business days prior to the commencement of activities. The tentative start date, tentative duration, and timing of various activities to be conducted (tree felling, yarding, site preparation, planting, etc.) shall be reported. Startup notification may be made via e-mail communication.
2. A notification shall be provided to the RWQCB at the conclusion of activities in individual THP units. Completion notification may be made via e-mail communication.

R. Training/Education for Staff and Contractors

1. The Discharger shall ensure that all personnel and contractors whose decisions or activities could affect storm water quality are familiar with the contents of these WDRs.
2. The Discharger shall provide a training program to employees whose activities may affect storm water discharges or who are responsible for inspecting/monitoring discharges in order to reinforce the training.
3. The Discharger shall provide a training program to contractors to raise their awareness of the problems and causes of stormwater pollution and to reinforce their training.

S. Signatory Requirements

1. All permit applications, reports, or information submitted to the RWQCB shall be signed by a responsible corporate officer or by a duly authorized representative. For the purpose of these WDRs, a responsible corporate officer means:

- (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
- (b) the manager of the construction activity if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

A person is a duly authorized representative if:

- (c) the authorization is made in writing by a person described in Item (a or b) above; and
 - (d) the authorization specifies either an individual or a position having responsibility for the overall operation of the construction activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
 - (e) the written authorization is submitted to the Regional Water Board staff prior to or together with any reports, information, or applications signed by the authorized representative.
2. Any person signing a document submitted pursuant to Order No. R1-2003-0027 shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Certification

I, Susan Warner, Executive Officer, do hereby
Certify that the foregoing is a full, true, and correct
copy of an Order adopted by the California
Regional Water Quality Control Board, North Coast
Region on February 27, 2003.

Susan Warner
Executive Officer